



GARY R. HERBERT  
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# State of Utah

## DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER  
Executive Director

### Division of Oil, Gas and Mining

JOHN R. BAZA  
Division Director

September 7, 2016

Certified Return Receipt  
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Scott Bakken  
Energy Fuels Resources (USA)  
225 Union Boulevard, Suite 600  
Lakewood, Colorado 80228

Subject: Surety Escalation; Energy Fuels Resources (USA) Inc.; Rim-Columbus, Pandora, La Sal-Snowball, Energy Queen, and Daneros mines; M/037/0006, M/037/0012, M/037/0026, M/037/0043 and S/037/0121, respectively; San Juan County, Utah

Dear Mr. Bakken:

Subsequent to our meeting held June 22, 2016, staff and management of the Division of Oil, Gas and Mining (the Division) evaluated the matter of labor costs associated with reclamation. As a result of these internal evaluations, the Division has determined that there will be no changes in the current method of determining labor rates used for reclamation cost estimates. The reasons for this determination are outlined below.

1) The purpose of a reclamation surety is to protect the taxpayers of the State of Utah, and when on federal lands, the taxpayers of the United States, from the costs of mine reclamation. The Division must ensure that adequate funds are available both now and in the future in a worst-case scenario if the Division is forced to conduct reclamation after an operator has abandoned a site and leaves reclamation to the Division. Also, when a mining operation is located on public lands, either state or federal, the Division must receive concurrence from the public land management agency for the amount of the surety.

2) The methods used to develop reclamation cost estimates must be applied uniformly across the state without regard to current localized economic conditions. The approved method of calculating reclamation cost estimates has been found to be very close to real costs incurred by the Division in actual cases of Division-managed reclamation. For any mine reclamation where there are residual funds, the Division is required to return any remaining funds to the operator. There have been some instances where the forfeited surety was inadequate. In these cases, the Division would need to initiate legal proceedings in civil court to recover the costs from the operator or its legal successors.





Scott Bakken

M/037/0006, M/037/0012, M/037/0026, M/037/0043, S/037/0121

September 7, 2016

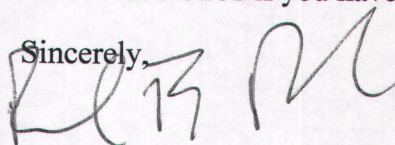
3) The board-approved cost-per-acre figures establish a baseline cost that determine if a contract can be given to a contractor with a State Cooperative Contract, or if it has to go out to open public bid. For small mine reclamations that only require routine backfilling, regrading, and revegetation, the cost-per-acre figures have been used to hire a contractor holding a State Cooperative Contract. For large mines with building demolition, dump rehabilitation, shaft and portal closure, and other circumstances not commonly found with small mining operations, it is highly likely that the Division will be required to go through an open bid process that is open to all qualified contractors in the state, and sometimes from outside the borders of Utah.

4) The Mined Land Reclamation Act, (Utah Code) 40-8-14(c), states, "The Board shall annually establish a figure representing the average cost of reclamation per acre after receiving a presentation from the division concerning the average cost of reclamation per acre and providing opportunity for public comment." The board annually reviews and approves the methods used by the Division to calculate reclamation cost estimates. If an operator objects to the Division's methods or requests the Division to deviate from those methods, an operator may state their opinion during the opportunity for public comment, or may appeal to the Board through a Request for Agency Action.

Since the methods for calculating cost estimates must be applied uniformly across the state, the "worst-case scenario" encompasses not just physical conditions at the site, but also potential socio-economic factors that could drive labor costs higher in the future anywhere in the state. The RS Means labor rates provide the assurance that a "worst-case scenario" can be met successfully. With this and the above factors taken into consideration, the Division concludes that we cannot arbitrarily grant the request to deviate from using labor rates that have been approved for use by the Board. Therefore, please complete the currently on-going escalation process and provide any additional reclamation surety by October 14, 2016.

The Division understands and appreciates the concerns raised by Energy Fuels. Please call Mike Bradley at 801-538-5332 or me at 801-538-5261 if you have further questions.

Sincerely,



Paul Baker

Minerals Program Manager

PBB:mpb:pb

Cc: David Pals, BLM Moab FO ([dpals@blm.gov](mailto:dpals@blm.gov)); Ted McDougall, BLM Monticello FO ([tmcdouga@blm.gov](mailto:tmcdouga@blm.gov)); Opie Abeyta, BLM State Office ([oabeyta@blm.gov](mailto:oabeyta@blm.gov)); Jerry Mansfield, SITLA ([jmansfield@utah.gov](mailto:jmansfield@utah.gov))

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